

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

January 19, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington D.C. 20554

VIA ECFS

**Re: Special Access for Price Cap Local Exchange Carriers, WC Docket 05-25;
AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent
Local Exchange Carrier Rates for Interstate Special Access Services,
RM-10593; WC Docket 16-143**

Dear Ms. Dortch:

The California Public Utilities Commission (“CPUC”) respectfully submits this response to the NCTA – The Internet & Television Association (“NCTA”) objection to CPUC staff’s request to gain access to Confidential and Highly Confidential information submitted in the above-referenced proceedings. NCTA claims that the request for access cannot be granted because the CPUC has not to date been a Participant in the Business Data Services (BDS) proceeding. NCTA further states that even if the CPUC could be deemed to be a Participant based on future intent to participate, the Commission should hold the CPUC request, and any similar request from any other prospective party, in abeyance until it is clear that further comments will be entertained in the proceeding.

The CPUC respectfully disagrees with NCTA’s objections. As NCTA notes, the Protective Orders define a Participant as “a person or entity that has filed, or has a good faith intention to file, material comments in this proceeding.”¹ Accordingly, past participation in the proceeding is not a prerequisite for access to this information. The above-referenced dockets remain open, their status is unsettled, and many question posed by the Commission remain unanswered. The CPUC seeks prompt access to Confidential or Highly Confidential Information in this proceeding in order to review and analyze the material, and be in a position to provide well-informed comments at the appropriate time

¹ See, *Special Access for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Order and Data Collection Protective Order, 29 FCC Rcd 11657 (Wireline Comp. Bur. 2014) (“*Data Collection Protective Order*”) at App. A ¶ 1.

(including any proposal to close the proceeding). The CPUC may choose to participate in a future phase of this proceeding, and to hold the CPUC's request in abeyance could essentially prevent the State of California from doing so. The CPUC intends to comply fully with the obligations imposed by the Protective Orders and should be granted the opportunity to review Confidential and Highly Confidential Information in order to prepare for future participation.

Respectfully submitted,

/s/ KIMBERLY LIPPI

Kimberly Lippi

Public Utilities Counsel
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-5822
kimberly.lippi@cpuc.ca.gov

cc: SpecialAccess@fcc.gov (via email)